



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

MARLON BROWN  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]

Date Mailed: October 11, 2024  
MOAHR Docket No.: 24-009246  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun**

**HEARING DECISION**

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on September 12, 2024, from Detroit, Michigan. Petitioner was represented by her husband/Authorized Hearing Representative (AHR) [REDACTED]. Because the AHR is Petitioner's spouse, he will be identified as the Petitioner in this Hearing Decision. The Department of Health and Human Services (Department) was represented by Rosemary Molsbee-Smith, Eligibility Specialist.

**ISSUE**

Did the Department properly determine Petitioner's eligibility for Medical Assistance (MA) benefits?

**FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner and his wife were ongoing recipients of MA benefits under the Healthy Michigan Plan (HMP).
2. On or around July 29, 2024, the Department sent Petitioner a Benefit Notice, advising that from June 1, 2024, through August 31, 2024, he and his wife were approved for full coverage MA under the HMP. (Exhibit A, pp. 22-25)
3. On or around July 29, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice, advising that he and his wife's MA benefits would be terminated effective September 1, 2024, because the household's countable income exceeds the income limit. (Exhibit A, pp. 26-30)

4. On or around August 6, 2024, Petitioner submitted a request for hearing, disputing the closure of his MA case.

### **CONCLUSIONS OF LAW**

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, Petitioner requested a hearing to dispute the Department's actions regarding the MA program, specifically, the determination that the household had excess income and was no longer eligible for MA under the full coverage HMP category. Petitioner asserted that a prior hearing was held regarding the same issue and the Administrative Law Judge (ALJ) ruled in his favor, ordering the Department to reinstate full coverage MA benefits for Petitioner and his wife. The Department representative confirmed that a prior administrative hearing was held on July 3, 2024, and the Hearing Decision was presented for review. (Exhibit A, pp. 6-10). The Department representative testified that in accordance with the Hearing Decision, the Department approved full coverage benefits under the HMP from June 1, 2024, through August 31, 2024. The Department presented the July 29, 2024, Benefit Notice in support of its testimony. The Department asserted that beginning September 1, 2024, ongoing, Petitioner and his spouse were no longer eligible for HMP due to excess income and the July 29, 2024, Health Care Coverage Determination Notice was issued, advising of the case closure.

Because Petitioner and his wife are under age 65, do not qualify for Medicare, and are not the parents of any minor children, they are potentially eligible for full coverage MA under the HMP. HMP is a MAGI-related MA category that provides MA coverage to individuals who (i) are 19 to 64 years of age; (ii) have income under the MAGI methodology at or below 133% of the federal poverty level (FPL); (iii) do not qualify for or are not enrolled in Medicare; (iv) do not qualify for or are not enrolled in other MA programs; (v) are not pregnant at the time of application; and (vi) are residents of the State of Michigan. BEM 137, p. 1; 42 CFR 435.603.

An individual is eligible for HMP if the household's MAGI-income does not exceed 133% of the FPL applicable to the individual's group size. An individual's group size for MAGI purposes requires consideration of the client's tax filing status and dependents. Family

size means the number of persons counted as members of an individual's household. 42 CFR 435.603(b). The Department representative testified that at the time the eligibility determination was made, Petitioner's tax filing group was two people, which included himself and his wife. Petitioner confirmed that he files taxes jointly with his wife and that they do not claim any tax dependents. Therefore, for HMP purposes, Petitioner and his wife have a household size of two. The FPL for a group size of two in 2024 is \$20,440. 133% of the annual FPL in 2024, for a household with two members is \$27,185.20. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's annual income cannot exceed [REDACTED] and thus, the monthly income cannot exceed [REDACTED] as they were current beneficiaries. Additionally, Department policy provides that if an individual's group's income is within 5% of the FPL for the applicable group size, a disregard is applied, making the person eligible for MA. MREM, § 7.2; BEM 500 (April 2022), pp. 3-5. With the 5% disregard applied, the household income limit is [REDACTED] or [REDACTED] monthly.

To determine financial eligibility under HMP, income must be calculated in accordance with MAGI under federal tax law. 42 CFR 435.603(e); BEM 500 (April 2022), p. 3. MAGI is based on Internal Revenue Service rules and relies on federal tax information. *Id.* To determine income in accordance with MAGI, a client's adjusted gross income (AGI) is added to any tax-exempt foreign income, tax-exempt Social Security benefits, and tax-exempt interest. Alternatively, it is calculated by taking the "federal taxable wages" for each income earner in the household as shown on the paystub or, if not shown on the paystub, by using gross income before taxes reduced by any money the employer takes out for health coverage, child care, or retirement savings. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>. When determining financial eligibility of current beneficiaries of MAGI-related MA, the State of Michigan has elected to base eligibility on current monthly income and family size. Additionally, the Department is to consider reasonably predictable changes in income. For individuals who are seasonal workers who know that they will only work for some portion of the year, the Department will consider the reasonably predictable future income decrease within the upcoming 12 months. The seasonal income reported will be averaged to arrive at a monthly amount, which is then added to any other non-fluctuating income. Michigan Medicaid State Plan Amendment Transmittal 17-0100, effective November 1, 2017 and approved by the Center for Medicare and Medicaid Services on March 13, 2018 available at [https://www.michigan.gov/mdhhs/-/media/Project/Websites/mdhhs/Folder3/Folder80/Folder2/Folder180/Folder1/Folder280/SPA\\_17-0100\\_Approved.pdf](https://www.michigan.gov/mdhhs/-/media/Project/Websites/mdhhs/Folder3/Folder80/Folder2/Folder180/Folder1/Folder280/SPA_17-0100_Approved.pdf).

The Department representative initially testified that Petitioner's household MAGI was [REDACTED] which included earned income from Petitioner's employment with Fresh Cut Lawn Care and unearned income for Petitioner's wife from a pension and Retirement Survivors Disability Insurance (RSDI or Social Security). The Department representative testified that it specifically considered [REDACTED] in RSDI for Petitioner's wife, as well as a [REDACTED] pension. Although Petitioner asserted that his wife's pension will be ending, as she turned 63 and will no longer be receiving it, as of the hearing date, the pension amount was still being issued to Petitioner's wife, and the monthly RSDI was also confirmed. With respect to the

earned income from Petitioner's employment, the Department testified that it considered his gross earnings for the month of July 2024 as verified through the Work Number. The Department representative testified that it specifically considered gross pay of [REDACTED] paid on July 3, 2024, [REDACTED] paid on July 12, 2024, [REDACTED] paid on July 19, 2024, and [REDACTED] paid on July 26, 2024. (Exhibit B). While Petitioner did not dispute that the income amounts identified on the Work Number were accurate, Petitioner credibly testified that his employment is seasonal, and he is only employed during the months of April to November each year. For the months in which he is not working, Petitioner testified that he receives unemployment compensation benefits, the amount of which is unknown. Upon review, Petitioners' MAGI should have been determined using the seasonal employment policy identified above, as the Department is to consider reasonably predictable changes in income. Therefore, the Department failed to establish that Petitioner's household income exceeded the MAGI limit based on his group size.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Petitioner's MA case effective September 1, 2024, due to excess income.


### **DECISION AND ORDER**

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Petitioner and his wife's MA cases effective September 1, 2024, and redetermine their MA eligibility under the most beneficial category for September 1, 2024, ongoing;
2. If eligible, provide MA coverage to Petitioner and his wife for any MA benefits that they were entitled to receive but did not, if any, from September 1, 2024, ongoing, and
3. Notify Petitioner in writing of its decision.

ZB/ml

  
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**Zainab A. Baydoun**  
Administrative Law Judge

**NOTICE OF APPEAL:** A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-8139

**Via Electronic Mail:**

**DHHS**

Yvonne Hill  
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30755 Montpelier Drive  
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**MDHHS-Oakland-DistrictII-Hearings@michigan.gov**

**Interested Parties**

BSC4  
M Schaefer  
EQAD  
MOAHR

**Via First Class Mail:**

**Authorized Hearing Rep.**

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**Petitioner**

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